

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NASSAU

-----X
DAVID WHITTING,

Plaintiff(s),

-against-

THE ROMAN CATHOLIC DIOCESE OF ROCKVILLE
CENTRE, SAINT MARY'S HIGH SCHOOL and
BR. HOWARD MURPHY,

Defendant(s).

-----X

Index No.:

Date Purchased:

SUMMONS

Plaintiff designates Nassau
County as the place of trial.


The basis of venue is:
Plaintiff's residence.

Plaintiff resides at:
3 Central Drive
Glen Head, NY 11704

To the above named Defendants:

You are hereby summoned to answer the complaint in this action, and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance on the Plaintiff's attorney(s) within twenty days after the service of this summons, exclusive of the day of service, where service is made by delivery upon you personally within the state, or, within 30 days after completion of service where service is made in any other manner. In case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

Dated: Garden City, New York
August 19, 2019



JOSEPH G. DELL
DELL & DEAN, PLLC
Attorneys for Plaintiff
DAVID WHITTING
1225 Franklin Avenue, Suite 450
Garden City, New York 11530
(516) 880-9700
File No.: 4241

TO: THE ROMAN CATHOLIC DIOCESE OF ROCKVILLE CENTRE
50 North Park Avenue
Rockville Centre, New York 11570

SAINT MARY'S HIGH SCHOOL
51 Clapham Avenue
Manhasset, New York 11030

BR. HOWARD MURPHY
63 Arizona Road
West Babylon, New York 11704

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NASSAU

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DAVID WHITTING,

Plaintiff(s),

-against-

THE ROMAN CATHOLIC DIOCESE OF ROCKVILLE
CENTRE, SAINT MARY'S HIGH SCHOOL and
BR. HOWARD MURPHY,

Defendant(s).

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Index No.:

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VERIFIED COMPLAINT

Plaintiff, by his attorneys, **DELL & DEAN, PLLC**, complaining of the Defendants, respectfully alleges, upon information and belief:

NATURE OF THE ACTION

1. This is an action to recover damages arising from BR. Howard Murphy ("Murphy") sexual molestation of Plaintiff, DAVID WHITTING, beginning when Plaintiff was approximately fifteen (15) years old.

2. Defendant, BR. HOWARD MURPHY, was Plaintiff's classroom teacher at Saint Mary's High School operated in Nassau County, State of New York, by Defendants, THE ROMAN CATHOLIC DIOCESE OF ROCKVILLE CENTRE and SAINT MARY'S HIGH SCHOOL.

3. Defendant, BR. HOWARD MURPHY engaged in explicit sexual behavior and lewd and lascivious conduct with Plaintiff on multiple occasions in 1982 through 1983 in Nassau County, State of New York.

4. Following several reports of the sexual behavior and lewd and lascivious conduct by Defendant, BR. HOWARD MURPHY against Plaintiff to Defendants, THE ROMAN

CATHOLIC DIOCESE OF ROCKVILLE CENTRE and SAINT MARY'S HIGH SCHOOL, Defendant, BR. HOWARD MURPHY was eventually removed from his teaching position at Saint Mary's High School.

5. The Defendants, THE ROMAN CATHOLIC DIOCESE OF ROCKVILLE CENTRE and SAINT MARY'S HIGH SCHOOL, failed to take steps to prevent Defendant, BR. HOWARD MURPHY from molesting Plaintiff. Instead, Defendants, THE ROMAN CATHOLIC DIOCESE OF ROCKVILLE CENTRE and SAINT MARY'S HIGH SCHOOL left a sexual predator in charge of school-age children and took no steps to protect the Plaintiff on who Defendant, BR. HOWARD MURPHY preyed.

6. Plaintiff now seeks damages from Defendants, THE ROMAN CATHOLIC DIOCESE OF ROCKVILLE CENTRE, SAINT MARY'S HIGH SCHOOL and BR. HOWARD MURPHY, who are legally responsible for Defendant, BR. HOWARD MURPHY actions and who failed properly to supervise and/or direct Defendant, BR. HOWARD MURPHY.

THE PARTIES

7. Plaintiff, DAVID WHITTING, is an individual who resides in Nassau County, New York. At the time of the events complained of, he was a minor residing in Nassau County, New York.

8. Defendant, THE ROMAN CATHOLIC DIOCESE OF ROCKVILLE CENTRE, is a New York not-for-profit corporation operating in Nassau County, New York.

9. Defendant, SAINT MARY'S HIGH SCHOOL, is a New York not-for-profit corporation operating in Nassau County, New York.

10. Upon information and believe, Defendant, BR. HOWARD MURPHY, was and still is a resident of the County of Suffolk, State of New York.

11. That Saint Mary's High School is an accredited Catholic school in Manhasset, New York, for children in ninth through twelfth. Saint Mary's High School is operated by Defendants, THE ROMAN CATHOLIC DIOCESE OF ROCKVILLE CENTRE and SAINT MARY'S HIGH SCHOOL.

12. Throughout the relevant period, Defendants, THE ROMAN CATHOLIC DIOCESE OF ROCKVILLE CENTRE and SAINT MARY'S HIGH SCHOOL, were responsible for the hiring, retention, direction and supervision of Defendant, BR. HOWARD MURPHY in his role as a teacher and mentor for young children.

FACTUAL BACKGROUND

13. Defendants, THE ROMAN CATHOLIC DIOCESE OF ROCKVILLE CENTRE and SAINT MARY'S HIGH SCHOOL, operated Saint Mary's High School in Nassau County, New York. During the year of 1982 through 1983, Defendants operated the teaching programs conducted at Saint Mary's High School in Nassau County, New York.

14. Defendant, BR. HOWARD MURPHY's duties and responsibilities as a teacher included supervising, interacting mentoring and counseling young children.

15. Plaintiff was a student of Saint Mary's High School in Nassau County, State of New York, when he was approximately fifteen (15) years old.

16. Defendant, BR. HOWARD MURPHY developed an inappropriate relationship with Plaintiff, inducing Plaintiff, as a very young child, to look up to Defendant, BR. HOWARD MURPHY and to place absolute trust and confidence in Defendant, BR. HOWARD MURPHY. Defendant, BR. HOWARD MURPHY then abused that trust and confidence by sexually molesting the Plaintiff.

17. During the year of 1982 through 1983, on multiple occasions, when Plaintiff was approximately fifteen (15) years old, Defendant, BR. HOWARD MURPHY repeatedly engaged in explicit sexual behavior and lewd and lascivious conduct with Plaintiff, including but not limited to fondling and masturbating Plaintiff's genitals.

18. Defendant, BR. HOWARD MURPHY repeatedly engaged in this explicit sexual behavior and lewd and lascivious conduct with Plaintiff in the State of New York, County of Nassau.

19. Defendant, BR. HOWARD MURPHY, took Plaintiff outside of New York to engage in explicit sexual behavior and lewd and lascivious conduct with Plaintiff and did engage in explicit sexual behavior and lewd and lascivious conduct with Plaintiff in, among other locations, the state of New Hampshire.

20. In the fall of 1982, Defendant, BR. HOWARD MURPHY, took Plaintiff on a retreat in New Hampshire. Defendant, BR. HOWARD MURPHY sexually molested Plaintiff while at this retreat in New Hampshire when Plaintiff was approximately fifteen (15) years old.

21. On numerous occasions, Defendant, BR. HOWARD MURPHY would find ways to be alone with the Plaintiff.

22. During the time alone between Defendant, BR. HOWARD MURPHY and Plaintiff, as arranged by Defendant, BR. HOWARD MURPHY, Defendant, BR. HOWARD MURPHY repeatedly engaged in this explicit sexual behavior and lewd and lascivious conduct with Plaintiff.

23. The explicit sexual behavior and lewd and lascivious conduct by Defendant, BR. HOWARD MURPHY forcibly upon the Plaintiff occurred on several occasions.

24. The Plaintiff retaliated against the explicit sexual behavior and lewd and lascivious conduct by Defendant, BR. HOWARD MURPHY by telling Defendant, BR. HOWARD MURPHY not to touch him.

25. When the Plaintiff retaliated against the explicit sexual behavior and lewd and lascivious conduct by Defendant, BR. HOWARD MURPHY, Defendant, BR. HOWARD MURPHY threatened the Plaintiff.

26. Defendant, BR. HOWARD MURPHY would also alienate and demoralize the Plaintiff in the classroom.

27. Defendant, BR. HOWARD MURPHY was acting within the scope of his employment as a teacher and mentor when he was alone with the Plaintiff in the classroom and used these opportunities to sexually abuse the Plaintiff.

28. Defendants, THE ROMAN CATHOLIC DIOCESE OF ROCKVILLE CENTRE and SAINT MARY'S HIGH SCHOOL, hired and/or appointed Defendant, BR. HOWARD MURPHY as a teacher for young children in the classroom. By so hiring or appointing Defendant, BR. HOWARD MURPHY as a teacher and mentor for young children, the Defendants, THE ROMAN CATHOLIC DIOCESE OF ROCKVILLE CENTRE and SAINT MARY'S HIGH SCHOOL made certain representations about Defendant, BR. HOWARD MURPHY's character, specifically that Defendant, BR. HOWARD MURPHY was a role model for young children and an individual whom young children could be safely entrusted. At the time the Defendants, THE ROMAN CATHOLIC DIOCESE OF ROCKVILLE CENTRE and SAINT MARY'S HIGH SCHOOL hired and/or appointed Defendant, BR. HOWARD MURPHY, and made these representations about his character, Defendants, THE ROMAN CATHOLIC DIOCESE OF ROCKVILLE CENTRE and SAINT MARY'S HIGH SCHOOL

knew, or should have known, of Defendant, BR. HOWARD MURPHY's propensity to molest young children and should have not put him in a position of trust and confidence with, and authority over, young children.

29. The Defendants, THE ROMAN CATHOLIC DIOCESE OF ROCKVILLE CENTRE and SAINT MARY'S HIGH SCHOOL, retained, supervised, and/or directed Defendant, BR. HOWARD MURPHY in his role as a teacher and mentor for young children in the classroom. By so retaining him, the Defendants, THE ROMAN CATHOLIC DIOCESE OF ROCKVILLE CENTRE and SAINT MARY'S HIGH SCHOOL made certain representations about Defendant, BR. HOWARD MURPHY's character, specifically that Defendant, BR. HOWARD MURPHY was a role model for young children and an individual to whom young children could be safely entrusted. During the time that the retained Defendant, BR. HOWARD MURPHY as a teacher, and made these representations about his character, the Defendants, THE ROMAN CATHOLIC DIOCESE OF ROCKVILLE CENTRE and SAINT MARY'S HIGH SCHOOL knew, or should have known, of Defendant, BR. HOWARD MURPHY's propensity to molest young children, and in particular, of his inappropriate relationship with the Plaintiff. Rather than taking steps to prevent Defendant, BR. HOWARD MURPHY from sexually assaulting children, the Defendants turned a blind eye while Murphy repeatedly molested the Plaintiff. The Defendants, THE ROMAN CATHOLIC DIOCESE OF ROCKVILLE CENTRE and SAINT MARY'S HIGH SCHOOL failed to direct and/or supervise Defendant, BR. HOWARD MURPHY in a manner to prevent, or detect, Defendant, BR. HOWARD MURPHY's sexual abuse of young children, including the Plaintiff.

30. As a result of Defendant, BR. HOWARD MURPHY's sexual abuse, Plaintiff suffered physical, psychological and emotional injury. Plaintiff experienced feelings of guilt,

loss of self-respect, shame, embarrassment, sadness, anger, depression, anxiety, and confusion resulting from Defendant, BR. HOWARD MURPHY's sexual abuse. Plaintiff developed life-long problems with authority, with sex and with being touched as a result of Defendant, BR. HOWARD MURPHY's sexual abuse. The Plaintiff has suffered from nightmares, panic attacks and flashbacks.

31. The Plaintiff only recently came to understand that he had been harmed and that the harm was caused by the explicit sexual behavior and lewd and lascivious acts of Defendant, BR. HOWARD MURPHY. Defendant, BR. HOWARD MURPHY "stole his life" from him, by molesting him when he was a child and leaving him with lifelong deep-seated problems whose origins he did not until recently suspect or understand.

CAUSES OF ACTION

FIRST CAUSE OF ACTION: BATTERY **(Against All Defendants)**

32. Plaintiff repeats, realleges and reiterates by reference all preceding paragraphs of this Complaint into this paragraph.

33. On several occasions, during the year of 1982 through 1983, Defendant, BR. HOWARD MURPHY intentionally touched the Plaintiff's body when he engaged in the sexual behavior and lewd and lascivious conduct described above. Such bodily contact was offensive and was without consent, because the Plaintiff, as a minor, was incapable of consenting to these acts.

34. At the time Defendant, BR. HOWARD MURPHY offensively touched the Plaintiff's body, Defendant, BR. HOWARD MURPHY was employed or appointed by some or all of the Defendants, THE ROMAN CATHOLIC DIOCESE OF ROCKVILLE CENTRE and SAINT MARY'S HIGH SCHOOL as Plaintiff's teacher and mentor. It was part of Defendant,

BR. HOWARD MURPHY's job as a role model and teacher to gain the Plaintiff's trust. Defendant, BR. HOWARD MURPHY used his position, and the representations made by the Defendants, THE ROMAN CATHOLIC DIOCESE OF ROCKVILLE CENTRE and SAINT MARY'S HIGH SCHOOL about his character that accompanied that position, to gain the Plaintiff's trust and confidence to create opportunities to be alone with, and touch, the Plaintiff.

35. The Defendants, THE ROMAN CATHOLIC DIOCESE OF ROCKVILLE CENTRE, SAINT MARY'S HIGH SCHOOL and BR. HOWARD MURPHY, are liable for Defendant, BR. HOWARD MURPHY's offensive bodily contact under the doctrine of *respondeat superior*.

36. The Plaintiff suffered injury as a result of Defendant, BR. HOWARD MURPHY's offensive bodily contact, including psychological and emotional injury as described above.

37. By reason of the foregoing Defendants, THE ROMAN CATHOLIC DIOCESE OF ROCKVILLE CENTRE, SAINT MARY'S HIGH SCHOOL and BR. HOWARD MURPHY, are liable to the Plaintiff in an amount to be proved at trial, but no less than \$20,000,000.

SECOND CAUSE OF ACTION: ASSAULT
(Against All Defendants)

38. Plaintiff repeats, realleges and reiterates by reference all preceding paragraphs of this Complaint into this paragraph.

39. On several occasions, during the year of 1982 through 1983, Defendant, BR. HOWARD MURPHY intentionally touched the Plaintiff's body when he engaged in the sexual behavior and lewd and lascivious conduct described above. Defendant, BR. HOWARD MURPHY also threatened physical harm to the Plaintiff if Plaintiff told anyone what Defendant,

BR. HOWARD MURPHY did to the Plaintiff. Such conduct placed Plaintiff in imminent apprehension of harmful contact.

40. At the time Defendant, BR. HOWARD MURPHY offensively touched the Plaintiff and threatened physical harm to the Plaintiff, Defendant, BR. HOWARD MURPHY was employed or appointed by some or all of the Defendants, THE ROMAN CATHOLIC DIOCESE OF ROCKVILLE CENTRE and SAINT MARY'S HIGH SCHOOL, as Plaintiff's teacher and mentor. It was part of Defendant, BR. HOWARD MURPHY's job as a role model and teacher to gain the Plaintiff's trust. Defendant, BR. HOWARD MURPHY used his position, and the representations made by the Defendants, THE ROMAN CATHOLIC DIOCESE OF ROCKVILLE CENTRE and SAINT MARY'S HIGH SCHOOL about Defendant, BR. HOWARD MURPHY's character that accompanied the position, to gain the Plaintiff's trust and confidence and to create opportunities to be alone with and touch the Plaintiff.

41. The Defendants, THE ROMAN CATHOLIC DIOCESE OF ROCKVILLE CENTRE, SAINT MARY'S HIGH SCHOOL and BR. HOWARD MURPHY, are liable for Defendant, BR. HOWARD MURPHY's conduct under the doctrine of *respondeat superior*.

42. The Plaintiff suffered injury as a result of Defendant, BR. HOWARD MURPHY's conduct, including psychological and emotional injury as described above.

43. By reason of the foregoing, Defendants, THE ROMAN CATHOLIC DIOCESE OF ROCKVILLE CENTRE, SAINT MARY'S HIGH SCHOOL and BR. HOWARD MURPHY, are liable to the Plaintiff in an amount to be proved at trial, but no less than \$20,000,000.

THIRD CAUSE OF ACTION: NEGLIGENT HIRING
(Against Diocese and Saint Mary's)

44. Plaintiff repeats, realleges and reiterates by reference all preceding paragraphs of this Complaint into this paragraph.

45. Defendant, BR. HOWARD MURPHY was hired as a teacher at Saint Mary's High School in Nassau County, New York by some or all of the Defendants, THE ROMAN CATHOLIC DIOCESE OF ROCKVILLE CENTRE and SAINT MARY'S HIGH SCHOOL. Defendant, BR. HOWARD MURPHY was subsequently transferred to continue teaching.

46. The position for which Defendant, BR. HOWARD MURPHY was hired required him to work closely with and mentor young children.

47. The Defendants, THE ROMAN CATHOLIC DIOCESE OF ROCKVILLE CENTRE and SAINT MARY'S HIGH SCHOOL, were negligent in hiring Defendant, BR. HOWARD MURPHY because they knew, or if they did not know, should have known, of his propensity to develop in appropriate relationships with young children in his charge and to engage in sexual behavior and lewd and lascivious conduct with such young children.

48. Defendant, BR. HOWARD MURPHY would not and could not have been in a position to sexually abuse the Plaintiff had he not been hired by the Defendants, THE ROMAN CATHOLIC DIOCESE OF ROCKVILLE CENTRE and SAINT MARY'S HIGH SCHOOL to teach and mentor young children at Saint Mary's High School in Nassau County, New York, including the Plaintiff herein.

49. The Plaintiff suffered injury as a result of Defendant, BR. HOWARD MURPHY's inappropriate sexual behavior and lewd and lascivious conduct, including psychological and emotional injury as described above.

50. By reason of the foregoing, Defendants, THE ROMAN CATHOLIC DIOCESE OF ROCKVILLE CENTRE, SAINT MARY'S HIGH SCHOOL and BR. HOWARD MURPHY, are liable to the Plaintiff in an amount to be proved at trial, but no less than \$20,000,000.

**FOURTH CAUSE OF ACTION: NEGLIGENT
RETENTION, SUPERVISION AND DIRECTION**
(Against Diocese and Saint Mary's)

51. Plaintiff repeats, realleges and reiterates by reference all preceding paragraphs of this Complaint into this paragraph.

52. At all times while Defendant, BR. HOWARD MURPHY was employed or appointed by the Defendants, THE ROMAN CATHOLIC DIOCESE OF ROCKVILLE CENTRE and SAINT MARY'S HIGH SCHOOL, Defendant, BR. HOWARD MURPHY, was supervised by, under the direction of, and/or answerable to, the various Defendants and/or their agents and employees.

53. The Defendants, THE ROMAN CATHOLIC DIOCESE OF ROCKVILLE CENTRE and SAINT MARY'S HIGH SCHOOL, were negligent in their direction and/or supervision of Defendant, BR. HOWARD MURPHY in that they knew, or if they did not know, they should have known, of his propensity to develop in inappropriate relationships with young children under his charge and to engage in sexual behavior and lewd and lascivious conduct with young children, yet they retained him in his position as a teach to young children and thus left him in a position to continue such behavior.

54. The Defendants, THE ROMAN CATHOLIC DIOCESE OF ROCKVILLE CENTRE and SAINT MARY'S HIGH SCHOOL, were further negligent in their tension, supervision and/or director of Defendant, BR. HOWARD MURPHY, in that Defendant, BR. HOWARD MURPHY sexually molested the Plaintiff on the premises of the Defendants, THE ROMAN CATHOLIC DIOCESE OF ROCKVILLE CENTRE and SAINT MARY'S HIGH SCHOOL. The Defendants, THE ROMAN CATHOLIC DIOCESE OF ROCKVILLE CENTRE and SAINT MARY'S HIGH SCHOOL failed to take reasonable steps to prevent such events

from occurring on their premises.

55. Defendant, BR. HOWARD MURPHY, would not and could not have been in a position to sexually abuse the Plaintiff had he not been negligently retained, supervised, and/or directed by the Defendants, THE ROMAN CATHOLIC DIOCESE OF ROCKVILLE CENTRE and SAINT MARY'S HIGH SCHOOL, as a teacher and mentor to young children in the classroom, including the Plaintiff herein.

56. The Plaintiff suffered injury as a result of Defendant, BR. HOWARD MURPHY's inappropriate sexual behavior and lewd and lascivious conduct, including psychological and emotional injury as described above.

57. By reason of the foregoing, Defendants, THE ROMAN CATHOLIC DIOCESE OF ROCKVILLE CENTRE, SAINT MARY'S HIGH SCHOOL and BR. HOWARD MURPHY, are liable to the Plaintiff in an amount to be proved at trial, but no less than \$20,000,000.

**FIFTH CAUSE OF ACTION: INTENTIONAL INFLECTION
OF EMOTIONAL DISTRESS
(Against All Defendants)**

58. Plaintiff repeats, realleges and reiterates by reference all preceding paragraphs of this Complaint into this paragraph.

59. The sexual abuse of the Plaintiff when Plaintiff was a minor was extreme and outrageous conduct, beyond all possible bounds of decency, atrocious and intolerable in a civilized community.

60. The Defendants, THE ROMAN CATHOLIC DIOCESE OF ROCKVILLE CENTRE, SAINT MARY'S HIGH SCHOOL and BR. HOWARD MURPHY, knew or disregarded the substantial probability that her conduct would cause severe emotional distress to the Plaintiff.

61. At the time Defendant, BR. HOWARD MURPHY molested the Plaintiff, which Defendant, BR. HOWARD MURPHY knew would cause, or disregarded the substantial probability that it would cause, severe emotional distress, Defendant, BR. HOWARD MURPHY was employed as the Plaintiff's teacher and mentor by some or all of the Defendants, THE ROMAN CATHOLIC DIOCESE OF ROCKVILLE CENTRE and SAINT MARY'S HIGH SCHOOL. It was part of Defendant, BR. HOWARD MURPHY's job as a role model and teacher to gain the Plaintiff's trust. Defendant, BR. HOWARD MURPHY used his position and the representations made the by the Defendants, THE ROMAN CATHOLIC DIOCESE OF ROCKVILLE CENTRE and SAINT MARY'S HIGH SCHOOL about his character that accompanied that position, to gain the Plaintiff's trust and confidence to create opportunities to be alone with and touch the Plaintiff.

62. The Defendants, THE ROMAN CATHOLIC DIOCESE OF ROCKVILLE CENTRE, SAINT MARY'S HIGH SCHOOL and BR. HOWARD MURPHY, are liable for . Defendant, BR. HOWARD MURPHY's conduct under the doctrine of *respondeat superior*.

63. By reason of the foregoing, Defendants, THE ROMAN CATHOLIC DIOCESE OF ROCKVILLE CENTRE, SAINT MARY'S HIGH SCHOOL and BR. HOWARD MURPHY, are liable to the Plaintiff in an amount to be proved at trial, but no less than \$20,000,000.

**SIXTH CAUSE OF ACTION: NEGLIGENT INFLECTION
OF EMOTIONAL DISTRESS
(Against All Defendants)**

64. Plaintiff repeats, realleges and reiterates by reference all preceding paragraphs of this Complaint into this paragraph.

65. The Defendants, THE ROMAN CATHOLIC DIOCESE OF ROCKVILLE CENTRE, SAINT MARY'S HIGH SCHOOL and BR. HOWARD MURPHY, owed a duty to the Plaintiff because the Plaintiff was a minor entrusted to their care and because the Defendants, THE ROMAN CATHOLIC DIOCESE OF ROCKVILLE CENTRE and SAINT MARY'S HIGH SCHOOL, through their hiring and/or appointment, and their retention of Defendant, BR. HOWARD MURPHY, represented that Defendant, BR. HOWARD MURPHY was a role model for young children and an individual to whom young children could be safely entrusted.

66. The Defendants, THE ROMAN CATHOLIC DIOCESE OF ROCKVILLE CENTRE, SAINT MARY'S HIGH SCHOOL and BR. HOWARD MURPHY, breached their duty to the Plaintiff by negligently hiring, appointing, retaining, supervising, and/or directing Defendant, BR. HOWARD MURPHY, and in failing to protect the Plaintiff from a sexual predator.

67. The Plaintiff suffered severe emotional distress including psychological and emotional injury as described above. This distress was a direct result of the Defendants' breach in their duty.

68. In addition to their own liability for negligently inflicting emotional distress on the Plaintiff, Defendants, THE ROMAN CATHOLIC DIOCESE OF ROCKVILLE CENTRE, SAINT MARY'S HIGH SCHOOL and BR. HOWARD MURPHY, are also liable for Defendant, BR. HOWARD MURPHY's negligent infliction of emotional distress under the doctrine of *respondeat superior*. At the time Defendant, BR. HOWARD MURPHY breached his duty to the Plaintiff, Defendant, BR. HOWARD MURPHY, was employed as the Plaintiff's teacher and mentor by some or all of the Defendants, THE ROMAN CATHOLIC DIOCESE OF ROCKVILLE CENTRE and SAINT MARY'S HIGH SCHOOL. It was part of Defendant, BR.

HOWARD MURPHY's job as a role model and teacher to gain the Plaintiff's trust. Defendant, BR. HOWARD MURPHY, used his position, and the representations made by the Defendants, THE ROMAN CATHOLIC DIOCESE OF ROCKVILLE CENTRE and SAINT MARY'S HIGH SCHOOL, about his character that accompanied that position, to gain the Plaintiff's trust and confident to create opportunities to be alone with and touch the Plaintiff.

69. By reason of the foregoing, Defendants, THE ROMAN CATHOLIC DIOCESE OF ROCKVILLE CENTRE, SAINT MARY'S HIGH SCHOOL and BR. HOWARD MURPHY, are liable to the Plaintiff in an amount to be proved at trial, but no less than \$20,000,000.

SEVENTH CAUSE OF ACTION: NEGLIGENCE
(Against All Defendants)

70. Plaintiff repeats, realleges and reiterates by reference all preceding paragraphs of this Complaint into this paragraph.

71. At all times mentioned herein, Defendants, THE ROMAN CATHOLIC DIOCESE OF ROCKVILLE CENTRE, SAINT MARY'S HIGH SCHOOL and BR. HOWARD MURPHY owed a duty of care and/or duty of care including but not limited to, *in loco parentis* to keep the children of its parishes and schools safe from sexual abuse under its supervision and control, including on Defendants, THE ROMAN CATHOLIC DIOCESE OF ROCKVILLE CENTRE and SAINT MARY'S HIGH SCHOOL's premises, that ultimately befell the Plaintiff, and the Defendants, THE ROMAN CATHOLIC DIOCESE OF ROCKVILLE CENTRE and SAINT MARY'S HIGH SCHOOL had a duty to supervise Defendant, BR. HOWARD MURPHY.

72. At all times mentioned herein, Defendants, THE ROMAN CATHOLIC DIOCESE OF ROCKVILLE CENTRE, SAINT MARY'S HIGH SCHOOL and BR. HOWARD

MURPHY, and/or its agents, servants and/or employees breached the above-stated duty in a negligent, reckless, willful and wanton manner, and caused Plaintiff to be sexually assaulted.

73. As a result of the negligence of Defendants, THE ROMAN CATHOLIC DIOCESE OF ROCKVILLE CENTRE, SAINT MARY'S HIGH SCHOOL and BR. HOWARD MURPHY, and/or its agents, servants and/or employees, Plaintiff was caused serious personal injuries, emotional distress, mental pain and suffering, mental anguish and/or physical manifestations thereof, and other losses, all of which have not as yet been ascertained.

74. By reason of the foregoing, Plaintiff is entitled to compensatory damages from Defendants, THE ROMAN CATHOLIC DIOCESE OF ROCKVILLE CENTRE, SAINT MARY'S HIGH SCHOOL and BR. HOWARD MURPHY, in such sums as a jury would find fair, just and adequate.

75. By reason of the foregoing, Plaintiff is entitled to punitive damages from Defendants, THE ROMAN CATHOLIC DIOCESE OF ROCKVILLE CENTRE, SAINT MARY'S HIGH SCHOOL and BR. HOWARD MURPHY, in such sums as a jury would find fair, just and adequate.

76. The amount of damages sought exceeds the jurisdiction of all lower courts which would otherwise have jurisdiction.

77. This action falls within exceptions to Article 16 of the C.P.L.R.

78. That each and every cause of action outlined in the above Complaint is made pursuant to The Child Victims Act (S. 2440; A. 2683), specifically but not limited to, amendments made to C.P.L.R. § 208; C.P.L.R. § 214-g; C.P.L.R. § 3403(a); and Subdivision 2 of section 3813 of the education law, as amended by chapter 346 of the laws of 1978;

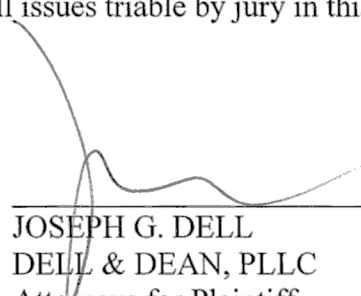
WHEREFORE, Plaintiff prays for judgment as follows:

- A. Awarding compensatory damages in the amount sufficient to compensate Plaintiff for his injuries;
- B. Awarding Plaintiff costs and disbursements and attorneys' fees to the extent available by law; and
- C. Awarding such other and further relief as this Court may deem just and proper.

JURY DEMAND

79. Plaintiff demands a trial by jury of all issues triable by jury in this action.

Dated: Garden City, New York
August 19, 2019



JOSEPH G. DELL
DELL & DEAN, PLLC
Attorneys for Plaintiff
DAVID WHITTING
1225 Franklin Avenue, Suite 450
Garden City, New York 11530
(516) 880-9700
File No.: 4241

VERIFICATION

STATE OF NEW YORK)
)ss.:
COUNTY OF *Nassau*)

I, *David Whitting*, being duly sworn, deposes and says:

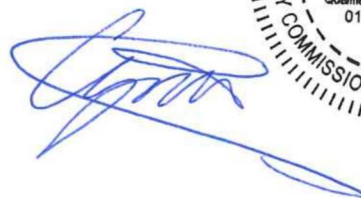
I am the plaintiff in the within action;

I have read the following SUMMONS AND VERIFIED COMPLAINT and believe the same is to be true to my knowledge; the same is true to my knowledge except as to those matters therein stated to be alleged on information and belief and as to those matters I believe them to be true.



Sworn to before me this

19 Day of *August*, 20 *19*



Index No.:

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NASSAU

DAVID WHITTING,

Plaintiff(s),

-against-

THE ROMAN CATHOLIC DIOCESE OF ROCKVILLE CENTRE, SAINT MARY'S HIGH
SCHOOL and BR. HOWARD MURPHY,

Defendant(s).

SUMMONS AND VERIFIED COMPLAINT

DELL & DEAN, PLLC
Attorneys for Plaintiff(s)
1225 Franklin Avenue, Suite 450
Garden City, New York 11530
(516) 880-9700

Pursuant to 22 NYCRR 130-1.1-a, the undersigned, an attorney admitted to practice in the courts of New York State, certifies that, upon information and belief and reasonable inquiry, (1) the contentions contained in the annexed document are not frivolous and that (2) if the annexed document is an initiating pleading, (i) the matter was not obtained through illegal conduct or that if it was, the attorney or other persons responsible for the illegal conduct are not participating in the matter or sharing in any fee earned therefrom and that (ii) if the matter involves potential claims for personal injury or wrongful death, the matter was not obtained in violation of 22 NYCRR 1200.41-A.

Dated: 20

Signature: _____
Print: JOSEPH G. DELL

PLEASE TAKE NOTICE

That the within is a (certified) true copy of an
NOTICE OF Entry Entered in the office of the clerk of the within-named Court on

That an Order of which is a true copy will be presented for settlement to the
NOTICE OF Settlement Hon. _____, one of the judges of the within-named Court,
at _____
on 20 _____, at _____ M.

Dated:

DELL & DEAN, PLLC
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